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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,635	03/11/2004	Frank Venegas JR.	IDS-17102/14	6673

7590

10/05/2005

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EXAMINER

MANAF, ABDUL

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,635

Applicant(s)

VENEGAS, FRANK

Examiner

Abdul Manaf

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/11/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

In response to restriction requirement of September 15, 2005 applicant has withdrawn claims 5,6 and 8 from consideration. Claims 1-4, 7 and 9 are pending based on the following office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by the U.S. Publication No. 2003/0178614 to Venegas Jr.

Regarding claim 1, Venegas discloses an energy-absorbing barrier system comprising an infill area (Fig. 9: 220) spanned by interconnected vertical and horizontal pipes (Fig. 9: 202, 204, 206, 212) where some portion of the vertical pipes is buried below ground surface (Figs. 1).

Regarding claim 3, Venegas discloses pipes are steel (Figs. 9; page 5-6: paragraph 0061, 10).

Regarding claim 4, Venegas discloses pipes covered with plastic (Figs. 1; page 1: paragraph 0007; page 5: paragraph 0057).

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Regarding claim 7, Venegas discloses the material spanning the infill area fastened to vertical and horizontal pipes (Figs. 6, 9, 19; page 2: paragraph 0026, page 3: paragraph 0045) with mounts (Fig. 9: 222).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Publication No. 2003/0178614 to Venegas Jr. in view of the U.S. Patent No. 4,364,546 to Lyman et al.

Regarding claim 2, Venegas discloses an energy-absorbing barrier system comprising pipes buried below ground surface (Fig. 4). Venegas does not disclose a pipe filled with cement. Lyman discloses pipes filled with concrete (Lyman, Fig. 2; column 1: lines 50-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Venegas by having a pipe filled with cement in order to secure and prevent its vertical, rotational motion.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Publication No. 2003/0178614 to Venegas Jr. in view of the U.S. Patent No. 6,186,274 to Reynolds et al.

Regarding claim 9, Venegas discloses an energy-absorbing barrier system comprising an infill material secured to horizontal and vertical pipes by clips (Fig. 9; page 2: paragraph 0039). Venegas does not disclose tethers to secure infill material with pipes. However, Reynolds discloses an infill material secured to horizontal or vertical pipes by using tether-rings (Reynolds, Fig. 8; column 5: lines 38-43). It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to modify Venegas by using tether-rings to secure the infill material with horizontal or vertical pipes in order to have more degrees of freedom for installation and maintenance of the barrier.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to Energy-Absorbing Panels and Wall Structures in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Manaf whose telephone number is (571) 272-1476. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

AM A.M.

09/29/2005

Basil Katch
BASIL KATCH
PRIMED EXAMINER
10/3/05